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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,340	09/30/2003	Yiming Ye	YOR920030226US1	3439
21254 7590 04/08/2008 MCGINN INTELLECTUAL PROPERTY LAW GROUP, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				
EXAMINER HARTMAN JR, RONALD D				
ART UNIT 2121		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/673,340

Applicant(s)

YE ET AL.

Examiner

Ronald D. Hartman Jr.

Art Unit

2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 21-27 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 21-27 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

Examiner Note:

The processing device of claim 11 has been interpreted, in light of the specification (e.g. see [0014]), to be a computer. Therefore, since this claim provides for hardware, it cannot be reasonably argued that the system is simply a system of software, per se, and for this reason, no rejection under 35 U.S.C. 101 is believed to be warranted at this time for claims 11-17.

The same rational is applied to claims 23-27, specifically independent claim 23 which recites the utilization of a processing device.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-10, 21-22 and 30 are directed to non-statutory subject matter.

As per claims 1-10, claim 1 recites a system comprising anything's (as per the definition of artifacts, see [0010]) and a smart distance between the anything's, but since the artifacts may be interpreted to be people separated by a distance, there does not appear to be any hardware required and therefore the claims are non-statutory since the applicant is, in essence, claiming a system of people or software.

As per claims 21-22, claim 21 lacks a tangible result. Simply calculating data is not sufficient, that is, the data must be used for some tangible purpose.

As per claim 30, this claim lacks a tangible result. Simply calculating data is not sufficient, that is, the data must be used for some tangible purpose. Furthermore, [0288] states that the medium may be paper "punch" cards, and transmission media such as digital or analog and communication links and wireless. These types of mediums are considered non statutory and cannot be included.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-21, 23 and 25-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Agents-Supported Adaptive Group Awareness: Smart Distance and WWWaware; by Ye et al.

As per claims 1-2, Ye et al. teaches a virtual enterprise system, comprising a plurality of artifacts and a smart distance between said plurality of artifacts (e.g. see page 370, section II, entitled "Smart Distance", Figure 15 and section VIII entitled, "Conclusion").

As per claim 3, Ye et al. further teaches the enterprise system's artifacts comprising at least one of a person, an object, a database, an autonomous element, an intelligent agent, and an information system (e.g. see article).

As per claim 4, Ye et al further teaches the enterprise system according to claim 1, wherein a plurality of interactions are formed between artifacts in said plurality of artifacts, said interactions comprising at least one of a video channel, an audio channel and a text channel (e.g. see article, page 371, 2 column, the start of the third paragraph). It is also noted that, as per MPEP 2144, "APPARATUS CLAIMS MUST BE STRUCTURALLY DISTINGUISHABLE FROM THE PRIOR ART". In this instant case, with regards to pending claim 4, the applicant claims a system comprising several structural elements and several functional features. The applicant must distinguish all apparatus claims (system claims are viewed to correspond to apparatus claims) using structural differences rather than relying on functional limitations.

As per claim 5, Ye et al. further teaches the enterprise system's smart distance comprising an optimal degree of awareness, communication and interaction between artifacts in said plurality of artifacts (e.g. see article). Once again, the applicant is reminded that functional limitations cannot be relied upon in order to distinguish an apparatus claim from the prior art of record.

As per claim 7, Ye et al. further teaches the enterprise system further comprising a smart distance enabled adaptive document community, and wherein said plurality of artifacts comprises at least one adaptive document (e.g. project collaboration, see section III entitled, "Architecture of Agent-Buddy").

As per claim 8, Ye et al. further teaches the enterprise system's smart distance comprising a distance between said at least one adaptive document and one of a person, an agent, and another adaptive document (e.g. project collaboration, see section III entitled, "Architecture of Agent-Buddy").

As per claim 9, Ye et al. further teaches the enterprise system's adaptive document comprising a local registry (e.g. see article).

As per claim 10, Ye et al. teaches the enterprise system further comprising a server (e.g. see article).

As per claim 11, Ye et al. teaches an apparatus for providing a smart distance among artifacts of an enterprise system, the apparatus comprising at least one processing device for determining said smart distance using contextual information captured by a state machine, and a smart distance preference as recorded by a local registry, wherein a smart distance between artifacts is determined relative to other smart distances between artifacts in said enterprise system (e.g. see page 370, section II, entitled "Smart Distance", Figure 15 and section VIII entitled, "Conclusion"). It is also noted that, as per MPEP 2144, "APPARATUS CLAIMS MUST BE STRUCTURALLY

DISTINGUISHABLE FROM THE PRIOR ART". In this instant case, with regards to pending claim 11, the applicant claims an apparatus comprising a processing device that performs several functional features. It is sufficient to reject this claim using a computer since the structure of pending claim 11 is not distinguished by the functional limitations claimed.

As per claim 12, Ye et al. further teaches the apparatus's smart distance comprising one of an adaptive smart distance and an on-demand smart distance (e.g. the article teaches an adaptive smart distance). Also, once again, it is noted that structure, rather than function, must be utilized in order to differentiate apparatus claims from the prior art of record, as per MPEP 2144.

As per claim 13, Ye et al. further teaches the apparatus's processing device introducing said smart distance into said enterprise system (e.g. see article). Also, once again, it is noted that structure, rather than function, must be utilized in order to differentiate apparatus claims from the prior art of record, as per MPEP 2144.

As per claim 14, Ye et al. further teaches the apparatus' smart distance comprising an adaptive document (e.g. project collaboration; see section III entitled, "Architecture of Agent-Buddy"). Also, once again, it is noted that structure, rather than function, must be utilized in order to differentiate apparatus claims from the prior art of record, as per MPEP 2144.

As per claim 15, Ye et al. further teaches an input device for inputting a smart distance requirement into different artifacts in said enterprise system (e.g. see Figure 3).

As per claim 16, Ye et al. further teaches a feature wherein a best interaction configuration is negotiated and selected at any time and under any contextual situation, to facilitate post-editing (e.g. project collaboration; see section III entitled, "Architecture of Agent-Buddy"). Also, once again, it is noted that structure, rather than function, must

be utilized in order to differentiate apparatus claims from the prior art of record, as per MPEP 2144.

As per claim 17, Ye et al. teaches the apparatus operable in a changing environment and is just-in-time (JIT) adaptable (e.g. project collaboration; see section III entitled, "Architecture of Agent-Buddy"). Also, once again, it is noted that structure, rather than function, must be utilized in order to differentiate apparatus claims from the prior art of record, as per MPEP 2144.

As per claim 21, Ye et al. teaches a method for providing a smart distance among artifacts of an enterprise system, the system comprising providing a plurality of artifacts and calculating a smart distance between said plurality of artifacts (e.g. see page 370, section II, entitled "Smart Distance", Figure 15 and section VIII entitled, "Conclusion").

As per claim 23, Ye et al. teaches a virtual enterprise system, the system comprising at least one processing device for determining a smart distance between artifacts using contextual information and a smart distance preference, said smart distance being determined relative to other smart distances between artifacts in said enterprise system (e.g. see page 370, section II, entitled "Smart Distance", Figure 15 and section VIII entitled, "Conclusion").

As per claim 25, the applicant claims an engineering and construction resource management system, and this is viewed to correspond to software. That being said, it is believed that Ye et al. teaches software for collaborative projects (e.g. project collaboration; see section III entitled, "Architecture of Agent-Buddy"). Further, once again it is noted that system (apparatus) claims must be distinguished by structure rather than function. With regards to claim 25, the software does not represent a structural difference since the system components are the same regardless of which

type of software is utilized on the virtual enterprise system. Therefore, for at least these reasons, claim 25 is believed to be adequately anticipated by the disclosure of Ye et al.

As per claim 26, Ye et al. further teaches the virtual enterprise systems smart distance comprising a distance between employees, partners, vendors, and customers in a virtual enterprise system (e.g. see page 370, section II, entitled "Smart Distance", Figure 15 and section VIII entitled, "Conclusion").

As per claim 27, Ye et al. further teaches the virtual enterprise system further comprising a graphical user interface for displaying a smart distance enabled view (e.g. Figure 3).

As per claim 30, Ye et al. teaches a programmable storage medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method for providing a smart distance among artifacts of an enterprise system, said method comprising providing a plurality of artifacts and calculating a smart distance between said plurality of artifacts (e.g. see page 370, section II, entitled "Smart Distance", Figure 15 and section VIII entitled, "Conclusion").

Allowable Subject Matter

Claims 6, 22 and 24 would be allowable if rewritten to overcome the rejections formed under 35 U.S.C. 101, from above, and if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

Art Unit: 2121

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald D Hartman Jr./

Primary Examiner, Art Unit 2121

March 31, 2008

RDH